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Filed : July 8, 2003

REMARKS

In the Office Action, the Examiner indicated that Claims 11, 12, 23, 24, 36, and 37 would be allowable if rewritten to overcome rejections under 35 U.S.C. § 112, second paragraph, set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. The Examiner rejected Claims 1-38 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner noted that the independent Claims 1, 14, and 26 are incorrect in reciting that the outer side wall is "hinged above and inboard of the exterior side surface" noting that the hinge arrangement disclosed in the subject application is located on the side surface facing laterally. The Examiner suggested that perhaps the intended limitation was "hinged at an upper end". The Applicant thanks the Examiner for noting this and hereby amends Claim 1 to recite "...an outer side wall hinged generally aligned with an upper edge of the exterior side surface..." (Claim 1 as currently amended). Similar changes are made by this paper to independent Claim 26.

The Examiner also argues that Claims 2 and 15 define a combination of the shell and chassis and as such do not limit the shell structure of the corresponding independent Claims 1 and 14 respectively as required by 35 U.S.C. § 112, fourth paragraph, and that the claims are thus rejected under the second paragraph of the statute for confusion of scope and under the fourth paragraph for failure to limit a preceding claim. The Applicant hereby amends Claims 2 and 15 to include the limitation of "wherein the shell is removably attachable to the chassis". The Applicant notes that the respective independent claim recites the limitation simply of "the shell being attachable to a chassis" and thus the Applicant believes that Claims 2 and 15 as currently amended comply with the requirements of 35 U.S.C. § 112, fourth paragraph, by introducing the additional limitation that the attachability of the shell to the chassis is a removable attachability rather than a simple attachability which may be relatively permanent, such as by welding.

The Examiner also rejected Claims 1-5, 9, 10, 26-30, 34, and 35 under 35 U.S.C. § 102(b) as being anticipated by Bateman (US 5,593,201) and particularly notes the arrangement of the outside wall item 58 of Bateman. The Applicant notes that the Examiner indicated that Claim 11 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, previously discussed and also to include all of the limitations of the base claim and any intervening claims. The Applicant notes that Claim 1 is amended by this paper to

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include the limitations of Claim 11 as well as the intervening dependent Claim 10. Thus, as indicated by the Examiner, the Applicant believes that Claim 1 as currently amended is patentable under the requirements of 35 U.S.C. § 102(b) over the teachings of Bateman '201. The Applicant notes that similar changes are made by this paper to Claim 26. The Applicant thus believes that Claims 1 and 26 as well as the claims depending therefrom are patentable under the requirements of 35 U.S.C. § 102(b) over the teachings of Bateman.

The Examiner also rejected Claims 6-8, 14-22, and 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Bateman in view of either Mikami et al or Tomioka et al. The Examiner argues that it would have been obvious to one of ordinary skill in the art to provide to the Bateman apparatus a moisture flange 5 or 8/18 as taught by either of Mikami et al or Tomioka et al respectively that extends outwardly from the periphery of the opening for the window in order to seal and to block moisture from passing into the opening.

The Applicant has carefully reviewed the teachings of Bateman '201, Mikami et al (JP 360045444), and Tomioka et al '504. The Applicant respectfully notes that Bateman '201 fails to teach a flange structure extending outwardly from the opening, such as the side or rear opening of the Bateman truck tool organizer. The Applicant further notes that the teachings of both Mikami et al and Tomioka et al teach various arrangements of waterproofing structures comprising resilient seals such as item 8 of Mikami et al and 18/19 of Tomioka et al as noted by the Examiner however respectfully notes that the resilient flanges or weather seals of both Mikami et al and Tomioka et al extend generally vertically upwards from the respective openings of Mikami et al and Tomioka et al whereas the Applicant claims "a moisture flange extending generally horizontally outwardly from the periphery of the at least one side opening" (Claims 6, 14, and 31 as currently amended).

The Applicant thus believes that the combined teachings of Bateman and either of Mikami et al or Tomioka et al would at most teach an opening with a moisture flange extending vertically rather than generally horizontally as in the Applicant's claimed invention. The Applicant respectfully further notes that the arrangement of Mikami et al and Tomioka et al is of a angled but generally horizontally extending automobile rear glass arranged such that the rear glass itself directs incident water (such as rain) around the opening rather than in the Applicant's claimed invention wherein "the moisture flange is configured to direct incident water around the at least one side opening" (Claim 1, 14, and 31 as currently amended). The Applicant notes that

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the resilient weather seal 8 or 18/19 of Mikami et al and Tomioka et al, respectively, seals against the rear glass door to inhibit sideways intrusion of water or other debris through the opening but is not arranged to direct incident water around the opening as in the Applicant's claimed invention. Thus the Applicant believes that Claims 6-8, 14-22, and 31-33 are patentable under the requirements of 35 U.S.C. § 103(a) over the combined teachings of Bateman and either of Mikami et al or Tomioka et al.

The Examiner also rejected Claims 5, 18, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Bateman or Bateman in view of either Mikami et al or Tomioka et al as applied to Claims 4, 17, and 29 as previously discussed and further in view of Tonks (GB 2 181 699). As noted by the Examiner in the Office Action, Bateman '201 fails to teach the claimed aspects to "an outer side wall...a rear opening; and an outer rear wall covering the rear opening such that in an open position, access is also provided to the cargo compartment via the rear opening wherein, in the closed positions, the outer rear wall and outer side wall substantially abut each other". The Applicant has carefully reviewed the Tonks reference and respectfully notes that Tonks also fails to teach these claimed aspects of the Applicant's invention. As the Applicant believes that Claims 5, 18, and 30 as well as the intervening dependent claims properly further limit the claimed invention as required by 35 U.S.C. § 112, fourth paragraph, the Applicant believes that these claims are patentable under the requirements of 35 U.S.C. § 103(a) over the combined teachings of Bateman, Mikami et al, Tomioka et al, and Tonks.

The Examiner also rejected Claims 8, 20, and 33 under 35 U.S.C. § 103(a) as being unpatentable over Bateman in view of either Mikami et al or Tomioka et al or Bateman in view of either Mikami et al or Tomioka et al and Tonks as applied to Claims 6, 14, and 31 as previously discussed and further in view of Holka et al (US 4,305,614). As noted by the Examiner in the Office Action, Bateman '201 fails to teach the claimed aspects to "an outer side wall...a rear opening; and an outer rear wall covering the rear opening such that in an open position, access is also provided to the cargo compartment via the rear opening wherein, in the closed positions, the outer rear wall and outer side wall substantially abut each other". The Applicant has carefully reviewed the Holka et al '614 reference and respectfully notes that Holka et al also fails to teach these claimed aspects of the Applicant's invention. As the Applicant believes that Claims 8, 20, and 33 as well as the intervening dependent claims properly further limit the claimed invention as required by 35 U.S.C. § 112, fourth paragraph, the Applicant

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believes that these claims are patentable under the requirements of 35 U.S.C. § 103(a) over the combined teachings of Bateman, Mikami et al, Tomioka et al, Tonks and Holka et al.

The Examiner also rejected Claims 13, 25, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Bateman or Bateman in view of either Mikami et al or Tomioka et al as applied to Claims 1, 14, and 26 as previously discussed and further in view of Styron (US 2,926,402). As noted by the Examiner in the Office Action, Bateman '201 fails to teach the claimed aspects to "an outer side wall...a rear opening; and an outer rear wall covering the rear opening such that in an open position, access is also provided to the cargo compartment via the rear opening wherein, in the closed positions, the outer rear wall and outer side wall substantially abut each other". The Applicant has carefully reviewed the Styron '402 reference and respectfully notes that Styron also fails to teach these claimed aspects of the Applicant's invention. As the Applicant believes that Claims 13, 25, and 33 as well as the intervening dependent claims properly further limit the claimed invention as required by 35 U.S.C. § 112, fourth paragraph, the Applicant believes that these claims are patentable under the requirements of 35 U.S.C. § 103(a) over the combined teachings of Bateman, Mikami et al, Tomioka et al, and Styron.

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SUMMARY

From the foregoing, the Applicant believes that the application as currently amended complies with the requirements of 35 U.S.C. § 112. The Applicant further believes that the application as currently amended is novel under the requirements of 35 U.S.C. § 102(b) over the teachings of Bateman. The Applicant further believes that the application as currently amended is patentable under the requirements of 35 U.S.C. § 103(a) over the combined teachings of Bateman, Mikami et al, Tomioka et al, Tonks, Holka et al, and Styron, taken independently or in any possible combination. The Applicant thus believes that the application is in a condition ready for allowance and respectfully requests prompt issuance of a Notice of Allowability. The Applicant believes that this amendment is fully responsive to the rejections made by the Examiner in the Office Action, however should there remain any further impediment to the allowance of this application that may resolved by a telephone conference, the Examiner is respectfully requested to contact the Applicant's undersigned representative at the indicated telephone number.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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